

**EXHIBIT 12**

THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

\* \* \* \* \*

2425 WL, LLC \* CIVIL NO. 4:24-CV-2590  
\* Houston, Texas  
Vs. \*  
\* 3:27 p.m. - 3:44 p.m.  
NATIONAL BANK OF KUWAIT, \*  
S.A.K.P., NEW YORK BRANCH \* November 21, 2024

\* \* \* \* \*

**TELEPHONIC MOTION HEARING**

BEFORE THE HONORABLE JUDGE KEITH P. ELLISON  
UNITED STATES DISTRICT JUDGE

\* \* \* \* \*

Proceedings recorded by computer stenography  
Produced by computer-aided transcription

*EDWARD L. REED*  
EdReedCR@aol.com  
409-330-1605

1      **APPEARANCES:**

2      For the Plaintiff:

3            MR. JOSEPH CARL CECERE  
4            **Cecere, PC**  
5            6035 McCommas Boulevard  
6            Dallas, TX 75206

7            MR. H. GRAY BURKS, IV  
8            **Attorney at Law**  
9            9601 Katy Freeway, Suite 450  
10          Houston, TX 77024

11         For the Defendant:

12         MR. ANDREW M. TROOP  
13         MR. CHARLES C. CONRAD  
14         **Pillsbury Winthrop Shaw Pittman, LLP**  
15         31 West 52nd Street  
16         New York, NY 10019

17         For the U.S. Trustee:

18         MR. R.J. SHANNON  
19         **Shannon & Lee, LLP**  
20         2100 Travis  
21         Suite 1525  
22         Houston, TX 77002

23         Case Manager:

24         ART RIVERA

25         Court Reporter:

26         EDWARD L. REED

*EDWARD L. REED*  
EdReedCR@aol.com  
409-330-1605

## P R O C E E D I N G S

3:27 P.M. - NOVEMBER 21, 2024

3 CASE MANAGER: Any parties on the line?

4 MR. SHANNON: This is R.J. Shannon on behalf  
5 of the Trustee. We're not a movant, but we are a  
6 related party in the case.

THE COURT: Okay, Keith Ellison here.

8 MR. TROOP: Your Honor, I'm Andrew Troop for  
9 the National Bank of Kuwait.

10 THE COURT: Welcome.

11 MR. TROOP: Thank you, Your Honor.

12 MR. SHANNON: R.J. Shannon for the Trustee's  
13 Office.

14 THE COURT: Okay, sorry to interrupt. Go  
15 ahead.

16 MR. CECERE: This is Joseph Carl Cecere for  
17 2425 WL, LLC.

18 || THE COURT: Anybody else expected?

19 MR. TROOP: This is Andrew Troop again. My  
20 partner, Charles Conrad, is in the room.

21 || THE COURT: Okay. Anybody else?

22 MR. CECERE: Your Honor, Gray Burks, who is a  
23 substituted out counsel, but he filed a designation,  
24 is going to be available, but I don't think he's joined  
25 yet.

*EDWARD L. REED*  
EdReedCR@aol.com  
409-330-1605

1                   THE COURT: We'll wait for him.

2                   **[Pause]**

3                   Mr. Burks doesn't have anything to say  
4 about the disqualification issue, does he?

5                   MR. CECERE: No, Your Honor, he does not.

6                   THE COURT: Okay, then why don't we start on  
7 that issue and then he can join us later.

8                   I really don't -- I just got these two  
9 letters, one from each side, about disqualification.  
10 If this is an issue, why wasn't a Motion to Disqualify  
11 filed in this cases?

12                  MR. CECERE: Your Honor, we're planning on  
13 filing a Motion to Disqualify. We have been busy. The  
14 bank filed an action to evict one of my clients and  
15 we've been consumed with that and other things, so we  
16 just haven't gotten it on file yet. But we do plan on  
17 filing a motion for disqualification. We did think,  
18 however, given that the bank is going to go back to the  
19 Justice of the Peace Court to get clarification on the  
20 order, we thought it would be appropriate to wait until  
21 that clarification was received because, by its terms,  
22 the order does seem to extend the [?] and raise  
23 substantial questions as to whether the --

24                  THE COURT: Secure?

25                  MR. TROOP: Yes, thank you, Your Honor. The

1 parties to this appeal are not the parties to this  
2 clarification order that was entered by the J.P. Court.  
3 I would also note, the ability to disqualify someone in  
4 federal court requires that a federal court adjudicate  
5 that issue and not rely on a state court judge.

6 And thirdly, Your Honor, that  
7 disqualification order was entered three weeks ago.

8 THE COURT: I'm having trouble hearing you.

9 MR. TROOP: I'm sorry, that qualification  
10 order was entered three weeks ago.

11 THE COURT: That's what I noticed.

12 MR. TROOP: Yes. Mr. Cecere was not involved  
13 in the eviction proceedings. It does not relate to  
14 his client, 2425 WL, which is the appellant in this  
15 case. It's a different entity that is represented by  
16 different parties, and there is no excuse here for what  
17 they intend to do.

18 And finally, Your Honor, I don't know on  
19 what factual basis anyone would assert that Pillsbury  
20 was a co-counsel in the J.P. action. We did not appear  
21 in that case and was not identified as co-counsel.

22 And I will say, clearly, Your Honor, I was  
23 in the courtroom on the day that the disqualification  
24 motion with respect to Jackson Walker was argued. And  
25 the underlying motion, I represent to you, was only

EDWARD L. REED  
EdReedCR@aol.com  
409-330-1605

1 against Jackson Walker. There was no mention of  
2 Pillsbury at the hearing, there was no request made  
3 with respect to Pillsbury at the hearing, and the order  
4 which was submitted after the hearing is different  
5 from the relief that was requested in the order. And  
6 Pillsbury never got served with anything, understanding  
7 we weren't counsel in the case.

8 So, Your Honor, I don't think there is any  
9 reason for you to delay this.

10 I'm sorry, Your Honor, one final thing.  
11 The issues in this appeal do not relate to the issue  
12 of whether or not [someone] who is not a party to this  
13 appeal can be dispossessed from the property which was  
14 sold pursuant to a bankruptcy court order, which has  
15 not been appealed, and the property was sold free and  
16 clear of all liens, incumbrances, and other interests  
17 in the property. So, whatever issue we have here on  
18 appeal by the appellant are divorced from that eviction  
19 proceeding in every respect and should not delay the  
20 appeal.

21 THE COURT: This is Keith Ellison speaking.  
22 I'm going to rule the issue of disqualification has  
23 been waived for purposes of this hearing because of  
24 this three-week delay in getting the papers to me. I  
25 can't possibly look into this question fully and fairly

*EDWARD L. REED*  
EdReedCR@aol.com  
409-330-1605

1 on this short notice, so I'm going to consider the  
2 issue of disqualification waived for lack of notice.

3 Now we'll move to the Motion to Dismiss  
4 the appeal. I have the papers, I've read the papers.  
5 Does the Appellee have anything it wishes to say in  
6 addition to what's in the papers?

7 MR. TROOP: Your Honor, the way you phrased  
8 the question, I would add to the papers only two things  
9 that I don't think that we've responded to what has  
10 been filed by the Appellant.

11 The first argument responded to by the  
12 Appellant is an argument we've made in this most recent  
13 filing that because there are still subsequent events  
14 occurring that we contend undercuts Appellant's  
15 argument, that they shouldn't proceed with the appeal  
16 because of the intention of the award was to get an  
17 answer in time for secondary filing for the designation  
18 of that as an issue. And the standing issue  
19 demonstrates that the Motion to Dismiss is premature.

20 I think for that, Your Honor, I would  
21 respond with, no, that's exactly what it's all about.  
22 The fact is that there are subsequent things happening.  
23 Whatever metaphor they use, it just makes it stronger,  
24 Your Honor, it doesn't make it --

25 THE COURT: Okay, I understand that point. Is

EDWARD L. REED  
EdReedCR@aol.com  
409-330-1605

1 that it?

2 MR. TROOP: Your Honor, let me just make sure  
3 as I'm looking through my notes, if you'll just give me  
4 30 seconds.

5 THE COURT: I thought your papers were  
6 complete. You don't have to feel the need to say  
7 anything more.

8 MR. TROOP: Your Honor, thank you.

9 THE COURT: Okay, for the Appellant.

10 MR. CECERE: Your Honor, thank you. I want to  
11 go through a few things mainly that are raised in their  
12 reply brief just to make sure that they are clear.  
13 And I'll try and be as brief as possible.

14 On standing, we cited numerous cases in  
15 which parties had standing to challenge release or  
16 exculpation provisions without being creditor. We  
17 think those stand for the proposition that whether or  
18 not we have a good -- you know, whether or not our  
19 claim is disallowed, that we can proceed with the  
20 appeal and we have standing to appeal because we have  
21 two independent grounds for standing.

22 Now, the bank says that we failed to  
23 timely appeal the order disallowing our claims in the  
24 Bankruptcy Court. That is maybe one of the issues on  
25 appeal, but is not correct. You can see the appeal is

1 now docketed in your court, 4:24-cv-03834, and we've  
2 explained in Docket Entry 1-1 on page 3 how our appeal  
3 is timely, and the Bankruptcy Court just mistook the  
4 deadline, mistook when the order was entered and when  
5 our motion was actually filed. So we don't think that  
6 it's an untimely appeal. And again, that's an issue  
7 that's kind of got to be resolved through the appellate  
8 process here before we know whether or not our claim  
9 really is or should be disallowed.

10                 And I would make one other case about the  
11 idea -- or make one more point about standing and our  
12 ability to challenge the gatekeeping order. That is  
13 simply something that is not -- I'm sorry, I'm just  
14 reviewing the rest of my notes. I have challenges to  
15 the gatekeeping order and I have challenges to the  
16 injunction and the exculpation provisions. We haven't  
17 given up on any of those arguments. We haven't given  
18 up on our claim that -- or how our claim is treated.  
19 We're keying on those things. But what we're saying  
20 here is we need a release of those independently and  
21 see if there is a certain kind of relief that can be  
22 awarded on each of those claims independently and even  
23 if like reclassifying creditors would require  
24 unscrambling the egg, as the bank says. We  
25 respectfully submit that several of them do not.

*EDWARD L. REED*  
EdReedCR@aol.com  
409-330-1605

1                   The question, for example, is whether or  
2 not the relief or exculpation, the gatekeeping  
3 provisions, can be taken out of the plan without  
4 getting rid of it. One of the things is time. You  
5 know, recently we have the *Highland Capital* case, we  
6 have the [?] case, in which relief provisions were  
7 deemed invalid and there was challenges to equitable  
8 [?] there in the bank, and the plan's opponents in  
9 those cases said the same thing they're saying here,  
10 which is, oh, that [?] entire bargain of the plan. But  
11 they were not being [?] because those releases could at  
12 least be taken out of the plan and consequences of that  
13 could be determined on remand for whether or not the  
14 person wants to walk away from the bargain or would  
15 want to proceed along the way.

16                   And in that case and in that sense, this  
17 is just a dispute between us and the bank, or at least  
18 in the event the Trustee would be challenging the  
19 exculpation of the Trustee. Those are the claims that  
20 are here. Those don't involve anybody else, like  
21 anywhere else.

22                   THE COURT: Thank you.

23                   MR. CECERE: May I address one more thing?

24                   You know, in addition to what we said in  
25 our papers, I did want to make one thing clear about

EDWARD L. REED  
EdReedCR@aol.com  
409-330-1605

1 Mr. Burks' reasons for [?] and them trying to pass that  
2 as being somehow kind of improper or strategious. The  
3 real question was the bank, in its papers, their plan  
4 didn't go into effect until it was determined whether  
5 they were going to be the winning bidder or not. So  
6 we didn't know until they won the auction or realize  
7 that other entities did not win the auction. Only at  
8 that point did we know which plan was going to be  
9 applicable, what plan provisions were going to be  
10 subject to. It was at that point that Mr. Burks  
11 decided he wanted to wait until that happened to make  
12 sure he understood the issues that were going to be  
13 going on in that field.

14 And as I mentioned, I did have Mr. Burks  
15 come today in case you wanted to talk about that  
16 directly with him.

17 THE COURT: No, that's not necessary.

18 MR. BURKS: Yes, Your Honor.

19 THE COURT: I made my living as a bankruptcy  
20 lawyer before I took this job and that's where my board  
21 certification is in, and I think this case points to  
22 one of the ugliest aspects of bankruptcy procedure,  
23 and that is the mootness doctrine. But I do believe,  
24 having refreshed myself on the Fifth Circuit  
25 jurisprudence on mootness, I do believe this case is

EDWARD L. REED  
EdReedCR@aol.com  
409-330-1605

1 moot and the appeal cannot proceed. The bank has  
2 already paid many creditors, including tax lien  
3 creditors, and any chance of getting money back from  
4 them is, I can guarantee, fruitless. The case is too  
5 far along to be unwound. There is no attempt to stay  
6 the effectiveness of the order, no appeals on that  
7 denial of stay. It's moot under Fifth Circuit law.

8                   And I regret that because I think it is  
9 an untoward aspect of bankruptcy jurisprudence. I was  
10 an appellant lawyer many times in my career, but the law  
11 is unambiguous and my ruling is this case is dismissed.

12                   Thank you very much.

13                   MR. CECERE: Thank you, Your Honor.

14                   MR. TROOP: Thank you, Your Honor.

15                   **[3:44 p.m. - Proceedings adjourned]**

16

17                   REPORTER'S CERTIFICATE

18

19 I certify that the foregoing is a correct transcript  
20 from the record of proceedings in the above-entitled  
21 cause.

22

23                   /s/ Ed Reed  
24                   Edward L. Reed  
Court Reporter

25                   1-6-25  
Date

EDWARD L. REED  
EdReedCR@aol.com  
409-330-1605